

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare – Khammam District – Revision Petition filed Under Section 6 of A.P.S.A.L.T.R 1959, by Sri Ranga Krishna Murthy S/o Late Bhumaiah R/o Yanambail (V) Paloncha (M), Khammam against the orders of the Agent to Government in CMA No.54/98 dt:16-5-2001 – Dismissed- Orders-Issued.

SOCIAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No: 209

Dated:20-11-2008.

Read the following:

1. From Sri K.Vinaya Kumar, counsel for the Petitioner, Revision Petition, dt:27-6-2001..
2. Government Memo No.10841 /LTR-2/2001-1 & 2, dt:30-7-2001.
3. From the Hon'ble High Court of Andhra Pradesh in W.P No.15634/2001,dt:1-8-2001.
4. From the Collector, Khammam in R.C No. F1/CMA 54/98 dt:7-1-2002.
5. Government Memo No.10841/LTR-2/2001, dt:4-4-2002, 3-4-2007 and 7-6-2007.
6. Government Telegram No.10841/LTR-2/2001, dt:20-3-2007.

ORDER:

In the reference 1st read above Sri Ranga Krishna Murthy S/o Late Bhumaiah has filed a Revision Petition before the Government against the orders of the Agent to Government in CMA No.54/98 dt:16-5-2001 in respect of lands admeasuring Acres 5.00 in Sy.No.150/9 situated at Yanambail (V) Paloncha (M) of Khammam District. The main grounds of the appellant in the Revision Petition among others are as follows:

- i. Transaction was from non-tribal to non-tribal and as such provisions of Land Transfer Regulation have no application. Even whereabouts of the un-official respondents are not known; as such both the authorities have failed to appreciate ground realities.
- ii. Revision Petitioner has been in continuous possession and enjoyment of the land since the date of purchase and revenue records and pahanies from 1966-67 and 1967-68 onwards clearly show the name of petitioner as purchaser.

2. The case was initiated on a report of the Special Deputy Tahasildar (TW), Paloncha, dt:12-12-1994. The Special Deputy Collector (TW), Paloncha after enquiry and as per the evidence held that the transfer of immovable property belonging to the non-tribe Smt. Akarapu Kanakamma was made to the another non-tribal Sri Ranga Krishna Murthy in contravention of the sub-section 1 of the Section-1 as laid in the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 read with 1970 after commencement of the said Regulation and as such it is null and void. The Special Deputy Collector (TW), Paloncha in exercise of the powers conferred under Sub-section 2 (a) of the Section-3 of the Regulation 1 of 1959, passed orders in proceeding vide LTR No.1302/94/PVC dt:25-7-1998 that the immovable property in question be taken possession by the Mandal Revenue Officer, Paloncha. Aggrieved by the orders of the Special Deputy Collector (TW), Paloncha Sri Ranga Krishna Murthy filed an appeal before the Agent to Government, Khammam. Upon examining the arguments and having considered the facts and circumstances, the Agent to Government made the following observations: **(a).** As per the revenue records, neither the name of the appellant existing in pattedar's column nor in occupant's column of the pahani for the crucial period of LTR Regulation 1/59 read with Regulation 1/70. The entries made in the pahanies are the subsequent development, which appears with different ink and handwritings in occupant's column of the pahani against the Sy.No.150/9, situated in Yanambile (V) of Paloncha (M). It clearly indicated that it is a forgery and interpolation to misguide the court. **(b).** The appellant failed to get registered the document of the scheduled land prior to promulgation of the LTR Provisions. No document of the sale agreement was filed at any time of the trial of the case. **(c).** The appellant failed to produce the corroborative evidences such as land revenue receipts in having possession over the suit scheduled land and Land Revenue paid to the Government for the land held by him to substantiate his legal right over the suit scheduled land. **(d).** It is proved by all, that the appellant has no corroborative evidences to substantiate to establish his legal rights over the suit scheduled land and therefore the transfer of the suit land was made in contravention of Sub-Section (1) of section (3) of LTR provisions 1/59/ read with Regulation /170. The Agent to Government, upheld the orders of the Special Deputy Collector (TW), Paloncha and dismissed the appeal in CMA No.54/98, dt:16-5-2001. Hence the petitioner filed the Revision Petition before the Government.

3. In the reference 2nd read above, the Agent to Government, Khammam was requested to furnish parawise remarks and case records and the same were furnished in the reference 4th read above. After examination of the case records, notices were issued to the concerned to attend the hearing of the Revision Petition on 22-4-2002, 24-3-2007, 9-4-2007 and finally heard on 16-6-2007. Sri Ranga Rammohan Rao i.e. son of the Revision Petitioner Ranga Krishna Murthy and his counsel attended and filed written arguments.

4. Government after careful examination of the material evidence on record observed that:

- i. During the crucial period of LTR Regulation 1/59 read with Regulation 1/70, name of the Revision Petitioner exist neither in pattedar's column nor in occupant's column. The entries made in the pahanies are the subsequent development appearing in difference ink and different handwriting in occupant's column of the pahani which clearly indicates that it is a forgery and interpolation which is now claimed by the Revision Petitioner as in possession before the commencement of Regulation 1/70.
- ii. According to sada sale deed dt:20-5-1996, the non-tribal Revision Petitioner i.e. Sri Ranga Krishna Murthy purchased an extent of Acres 3.00 in Sy.No.150/9 situated at Yanambile, a scheduled village in Paloncha Mandal from Smt.Akarapu Kanakamma, a tribal, for a sale consideration of Rs.1800. Chapter III, section 54 of Transfer of Property Act, 1882 defines that in case of tangible immovable property of the value of hundred rupees and upwards, or in the case of a revision or other tangible thing can be made only by a registered document. In C.R.P No.1087/96 (Bangaru Rama Thulisamma Vs Yada Mastan Reddy) the Hon'ble High Court in its order dt:10-8-1998 held that unstamped and unregistered sale deeds cannot be taken as an evidence of proof according to section 17 "B" of Regulation Act.
- iii. The argument that the revenue authorities cannot decide validity of the document is not correct. The proceedings under LTR have to be initiated by the Special Deputy Collector (TW), Paloncha or Agency Divisional Officer and Agent to Government, according to Section 2 (b&c) of the Regulation and subsequently by the Government being Revisional Authority. Without proper verification of correctness of the documents i.e. sale deeds, revenue records, it would be very difficult for the lower courts to arrive at a conclusion whether the transaction is hit by LTR or not. Therefore, the lower court has placed reliance on the judgment of the Hon'ble High Court in CRP No:1087/96, dt:10-8-1998 and provisions of Transfer of Property Act, 1882.

5. Government after careful examination of the case records, find no reason to interfere with the orders of the Agent to Government, Khammam District in CMA No:54/98, dated 16-5-2001 and accordingly dismiss the Revision Petition.

6. The Collector, Khammam District / the Agent to Government, Khammam is requested to take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**A.K.TIGIDI,
PrI. SECRETARY TO GOVERNMENT**

To

The Collector, Khammam District. (w.e)

(With RPAD of the following records)

1. LTR C.No.1302/94/pvc containing CFP-38, NFP-2 total 40 only.
2. CMA No.54/98 containing CFP-122, NF-6 total 128 only.

The Agent to Government, Khammam District.

The Special Deputy Collector (TW), Paloncha, Khammam District.

The Mandal Revenue Officer, Palvanha, Khammam District .

Sri K.Vinaya Kumar, Advocate,

H.No.1-3-183/40/68/C/2, Near play Ground No.11,

Gandhi Nagar, Hyderabad.

Sri Ranga Krishna Murthy S/o Late Bhumaiah,

R/o Yanambail (V) Paloncha (M), Khammam District.

Smt. Akarapu Kanakamma W/o of Late Narasaiah,

R/o Yanambail (V) Paloncha (M), Khammam District.

Copy to the P.S. to M (TW&RAID).

FORWARDED BY ORDER

SECTION OFFICER